

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 30100 Permit 20788

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE, ADDING
ENDANGERED OR THREATENED SPECIES TERM, AND AMENDING THE
PERMIT**

WHEREAS:

1. Permit 20788 was issued to Edward A. and Susan J. Rich on May 15, 1995, pursuant to Application 30100.
2. A petition for an extension of time in which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board on February 25, 1999.
3. The State Water Resources Control Board has determined that the petition for an extension of time in which to develop the project and apply the water to the proposed use does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
5. Fish, wildlife, and plants species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

Complete application of the water to the proposed use shall be made by
December 31, 2009.

(0000009)

2. Paragraph 20 of the permit is added to read as follows:

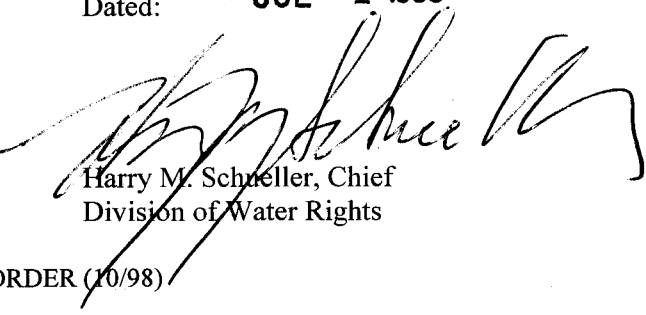
This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections

5131 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

Dated:

JUL - 1 1999



Harry M. Schneller, Chief
Division of Water Rights

ORDER (10/98)

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20788

Application 30100 of Edward A. Rich and Susan J. Rich

Post Office Box 344, Copperopolis, CA 95228

filed on April 8, 1992, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Sawmill Creek

Black Creek thence

Stanislaus River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 1,825 feet and East 1,000 feet from SW corner of Section 3	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	3	1N	12E	MD

County of Calaveras

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
FROST PROTECTION						
IRRIGATION	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	4	1N	12E	MD	20
	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	4	1N	12E	MD	5
	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	4	1N	12E	MD	8
	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	4	1N	12E	MD	7
	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	4	1N	12E	MD	18
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	3	1N	12E	MD	2
					TOTAL	60

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 98 acre-feet per annum to be collected from December 1 of each year to March 31 of the succeeding year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction of additional facilities necessary for diversion under this permit shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
8. Construction work shall be completed by December 31, 1998. (0000008)
9. Complete application of the water to the authorized use shall be made by December 31, 1999. (0000009)
10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)
11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1)adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2)the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

15. Rights under this permit are, and shall be, specifically subject to existing rights determined by the Stanislaus River Decree, Superior Court, San Joaquin County, No. 16873 insofar as said adjudicated rights are maintained. (0000023)

16. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe or alternative facility to the Chief of the Division of Water Rights for approval. Before storing water under this permit, permittee shall furnish evidence which substantiates that the outlet pipe or alternative facility has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043)

17. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento-San Joaquin Delta are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing.

(0000090)

18. The total quantity of water diverted under this permit, together with that diverted under the license issued pursuant to Application 18148, shall not exceed 148 acre-feet per annum.

(0000114)

19. For the preservation of fish and wildlife, water shall not be withdrawn from the reservoir such that less than 10 acre-feet of water will remain in storage in the reservoir. According to the area-capacity curve on file for licensed Application 18148, the surface elevation at 0 acre-feet of storage is 780 feet, the water surface elevation at 10 acre-feet of storage is 789 feet, and the water surface elevation at 50 acre-feet of storage is 797 feet.

(0400500)

(0230500)

(0070500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MAY 15 1995

STATE WATER RESOURCES CONTROL BOARD

Roger [Signature]
16 Chief, Division of Water Rights